SUPREME COURT, U. S.

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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM 1975

No. 75-64

GRINDLAYS BANK (UGANDA) LIMITED,
Petitioner,

v.

J. ZEEVI AND SONS, LTD., GAD ZEEVI, RIVKA ZEEVI, GALILLA PAGI and ENIA MELZNER, copartners doing business as J. ZEEVI & SONS,
Respondents.

REPLY BRIEF OF PETITIONER

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September 16, 1975.

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The Brief for Respondent amounts to a concession that the case requires review by this Court.

A. Respondent concedes the existence of federal questions (Resp. Br. p. 7), but argues that the federal questions "surviving the determination by the New York Court of Appeals are few in number and most narrow in scope." That argument supports the petition for certiorari for the following reasons.

1. Federal questions, by definition, survive "determination" by a state court. This case squarely and inescapably raises questions as to whether New York, under our federal system, has jurisdiction (1) to entertain this controversy between alien non-residents and (2) to adjudicate the controversy on the basis of New York substantive law, rather than on other bases such as Ugandan law, the act

of state doctrine and the Bretton Woods Agreement. Those questions must be answered by this Court, not by the unilateral dictate of the state court whose authority is questioned. *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398 (1964) at page 425.

2. The right and duty of this Court to examine and answer federal questions is not affected by the number of federal questions raised in a case, nor by the narrowness or breadth of the questions. Only this Court can answer federal questions, whether few or many, that are raised by the decision of a state court and only this Court can determine whether the scope of those questions is broad or narrow. Petitioner seeks review by this Court of the way in which a state court has answered federal questions. That review should not be denied on the basis of respondent's assertion that the federal questions are few in number and narrow in scope.

B. The issue now before this Court is whether or not a writ of certiorari should issue to search the record and to determine whether the judgment of the New York Court was correct or erroneous. It is quite beside the point, therefore, for respondents to argue that the decision below was "clearly correct" or to denigrate the importance of the federal questions, whose existence is undisputed.

We respectfully submit that, on the facts and law presented in the petition for certiorari, there is a high probability that this Court will find that the decision below is unsupported by the record and erroneous in law. Respondents have understandably sought, in their Brief in Opposition to the Petition for Certiorari, to present a contrary view. The issue presented by this conflict as to how the federal questions should be answered must be resolved by this Court, and should be resolved, we submit, after full briefing, argument and consideration, not only of the narrow questions in this case, but of their relation to relevant questions now pending before this Court. See, *inter alia*,

Burt Randolf Sugar and Wrestling, Inc. v. *Curtis Circulation Co.*, 383 F. Supp. 643 (S.D.N.Y. 1974) appeal pending; *Menendez* v. *Saks & Co.*, 485 F.2d 1355 (2d Cir. 1973) appeal pending, and *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398 (1964) at 425.

Issuance of the writ should not be frustrated by the *ipse dixit* of the state court whose judgment, explicitly passing on federal questions, is sought to be reviewed; still less by the efforts of respondents to prevent consideration by this Court of important federal questions that deserve answers.

CONCLUSION

The petition for a writ of certiorari should be granted.

Dated: New York, New York, September 16, 1975.

Respectfully submitted,

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